

REMARKS

In the Office Action dated September 23, 2005, claims 3,¹ 7, 38, and 42-44 were rejected under 35 U.S.C. § 112, ¶ 2; and claims 3-6, 10-13, 15-27, 30-33, 35-43, 46, and 47 were rejected under § 103(a) over U.S. Patent No. 6,430,556 (Goldberg) in view of U.S. Patent No. 6,507,842 (Grey).

A Supplemental Information Disclosure Statement is enclosed.

¹ Although the rejection refers to claim 1, Applicant believes that the Examiner intended the rejection to refer to claim 3 (since claim 1 was cancelled).

REJECTION UNDER 35 U.S.C. § 112, ¶ 2

The language of claim 3 was rejected as being indefinite for various reasons. The first reason was the preamble, which recites “A method comprising.” The Office Action stated that “it is not clear whether [sic] this method is used for.” 9/23/2005 Office Action at 2. Applicant believes that the Office Action meant to state that is not clear *what* the method is used for. There is no requirement either in the patent statutes or any of the patent rules that the preamble must state a field of use. In fact, under certain conditions, the M.P.E.P. has stated that the preamble is given no patentable weight. M.P.E.P. § 2111.02 (8th ed., Rev. 3), at 2100-51. Moreover, it is noted that the body of claim 3 recites several acts that are performed in the method. These acts specifically define the invention. Since the claim is adequately defined by the body of the claim, there is no need for a field of use limitation in the preamble. If a basis in the patent statute or patent rules exist for the requirement of a field of use limitation in the preamble, Applicant respectfully requests that the Examiner cite the statute or rule specifying that a field of use requirement is required in a method claim.

The language “presenting a user interface in a test system” in claim 3 was also rejected as being indefinite, with the Office Action stating that “it is not clear this interface is presented to e.g. user or what.” 9/23/05 Office Action at 2. Although Applicant believes that the original language of claim 3 is clear, Applicant has nevertheless added the language “a display of” in line 3 of claim 3 to clarify that the user interface is presented in a display. With respect to the requirement that the claim must specify what the user interface is presented to, Applicant notes that that is not necessary.

The language “receiving user selection through the user interface pertaining to environment information of a target database system to extract” was also rejected as being unclear. Although Applicant believes that this language of claim 3 is clear, further clarification is made by replacing “through” with “of user-selectable elements” at line 3, and adding “from the target database system” at lines 4-5 of claim 3.

The Office Action further stated that the second receiving act of claim 3 is “not needed excepting for ‘wherein the test system is separate from the target database system’ because ‘the extracted target database system is received by the test system response [sic] to the user selection.’” 9/23/2005 Office Action at 2. The rejection of this clause of claim 3 is unclear. The

first receiving act of claim 3 relates to receiving user selection of user-selectable elements in the user interface that pertain to environment information of a target database system to extract. The second receiving act of claim 3 relates to actually receiving the environment information by the test system that is extracted based on the user selection from the target database system. These two receiving acts are clearly different receiving acts that precisely define the scope of the invention.

In view of the foregoing, it is respectfully requested that the § 112 rejection of claim 3 be withdrawn.

In claim 7, the language “display of a” has been added to line 2. Also, the first receiving act has been amended to recite subject matter that is present at lines 9-10 of claim 7 (now deleted). Note that the amendment of the language at lines 3-4 of claim 7 merely restates what was already present in claim 7, and thus does not narrow the scope of the first receiving act of claim 7. For reasons similar to those given above with respect to claim 3, it is believed that claim 7 is not indefinite and withdrawal of the § 112 rejection of claim 7 is respectfully requested.

In claims 38, 42, 43, and 44, the language “a first system” was rejected because “it is not clear what first system does and where the second system is.” 9/23/2005 Office Action at 3. Note that the term “first” is merely used as a label. Moreover, use of the term “first” does not necessarily mean that there must be a “second” system,” as suggested by the Office Action. The use of “first” is to aid the reader in distinguishing “first system” from the “target database system” also recited in claim 38. Note that without the use of the label “first,” reference to “system” in dependent claims would be unclear since a reader would not know which system the dependent claims were referring to, the target database system or the system that includes the processor, display, software, and controller of claim 38. As to the comment that it is not clear what the first system does, Applicant notes that the elements of the first system are clearly laid out in the body of claim 38. If the Office Action is suggesting that a field of use limitation be included in the preamble of claim 38, Applicant respectfully submits that such a requirement is improper.

With respect to claim 42, the “first system” is distinguished from the “test system” and “target database system” used in the body of claim 42.

Appln. Serial No. 09/923,975
Amendment Dated December 19, 2005
Reply to Office Action Mailed September 23, 2005

Claims 43 and 44 are similarly definite.

In view of the foregoing, it is respectfully requested that all § 112 rejections be withdrawn.

REJECTIONS UNDER 35 U.S.C. § 103

Independent claim 44 was rejected as being obvious over Goldberg and Grey. In the rejection of claim 44, the Office Action referred to the rejection of claim 7. 9/23/2005 Office Action at 11. In the rejection of claim 7, the Office Action cited column 3, lines 60-65, of Goldberg as disclosing user-selectable options that correspond to statistics and cost parameters. The cited passage in column 3 of Goldberg refers to generating test objects by a GUI in response to a user request, where the test objects contain information that characterize the query object for testing purposes. However, this passage does not refer to receiving environment information that includes at least one of a number of nodes in the target database system, a number of processors per node, or random samples pertaining to demographics of data stored in the target database system. This subject matter is also not disclosed or suggested by Grey. Therefore, it is respectfully submitted that the hypothetical combination of Goldberg and Grey does not teach or suggest all elements of claim 44. A *prima facie* case of obviousness can therefore not be established with respect to claim 44 over Goldberg and Grey.

Independent claim 7 recites receiving user selection of user-selectable options that pertain to types of environment information of a target database system to extract from the target database system, where the user-selectable options correspond to environment information that includes at least one of a number of nodes in the target database system, a number of processors per node, disk access speed, and network access speed. Neither Goldberg nor Grey teaches or suggests any of the environment information recited in claim 7. Therefore, the hypothetical combination of Goldberg and Grey does not teach or suggest all elements of claim 7.

Independent claim 3 recites receiving user selection of user-selectable elements in a user interface pertaining to environment information of a target database system to extract from the target database system, where the environment information includes at least a number of nodes of the target database system. The Office Action referred to the "database schema" of Goldberg as being the environment information of claim 3. The database schema referred to Goldberg does not include a *number of nodes* of the target database system. A database schema typically defines tables, fields in each table, and relationships between fields and tables, of a relational database. A database schema does *not* include environment information including at least a number of nodes of the target database system. Grey also fails to teach or suggest the

environment information recited in claim 3. Therefore, the hypothetical combination of Goldberg and Grey does not teach or suggest all elements of claim 3.

Independent claim 38 is allowable for reasons similar to those of claim 7.

Independent claim 42 is allowable for reasons similar to those of claim 3.

Claim 46 has been amended from dependent to independent form, with the scope of claim 46 remaining *unchanged*. Claim 46 was rejected for the same reasons as claims 35 and 39 (which depend from claims 3 and 38, respectively). Specifically, the Office Action cited column 7, lines 23-39, of Goldberg as teaching the generation of an execution plan for a query based on an emulated database environment created by emulating a target database system. 9/23/2005 Office Action at 9. The cited passage of Goldberg refers to Fig. 4, which depicts an object request broker that is part of a CORBA architecture that defines a peer-to-peer distributed computing facility. The passage in column 7 of Goldberg further states that a client communicates with a server through an object request broker, and that the object request broker operates with a transport that conveys information between the client and the server. The cited passage also refers to an object implementation 420 that “performs the desired actions.” Goldberg, 7:37-38. There is nothing in this passage of Goldberg to even remotely suggest the generation of an execution plan for a query based on an emulated database environment created by emulating the target database system. Grey also fails to teach or suggest the element of claim 46 missing in Goldberg. Therefore, the hypothetical combination of Goldberg and Grey does not teach or suggest all elements of claim 46.

Dependent claims 35 and 39 (which depend from independent claims 3 and 38, respectively) are similarly further allowable over Goldberg and Grey for the reasons given above with respect to claim 46.

With respect to dependent claims 36, 40, and 47 (which depend from claims 35, 39, and 46, respectively), the Office Action cited column 8, lines 34-40, of Goldberg as teaching the displaying of steps of the execution plan in the user interface. The cited passage in column 8 of Goldberg refers to controlling a query object generator tool by a graphical user interface to enable a user, at a terminal, to operate interactively with the generator tool. There is no teaching or suggestion of displaying steps of an execution plan in the graphical user interface of Goldberg. Therefore, dependent claims 36, 40, and 47 are further allowable for the above reasons.

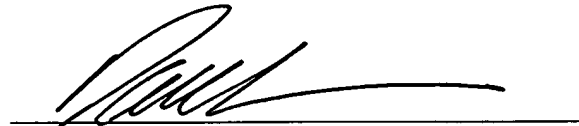
All remaining dependent claims are allowable for at least the same reasons as corresponding base claims (and any intervening claims).

Allowance of all claims is therefore respectfully requested. The Commissioner is authorized to charge any additional fees and/or credit any overpayment to Deposit Account No. 14-0225 (9749).

Respectfully submitted,

Date: _____

Dec. 19, 2005



Dan C. Hu
Registration No. 40,025
TROP, PRUNER & HU, P.C.
8554 Katy Freeway, Suite 100
Houston, TX 77024
Telephone: (713) 468-8880
Facsimile: (713) 468-8883